BILL NO. S-83-11-56

SPECIAL ORDINANCE NO. S-261-83

AN ORDINANCE approving Agreement between H. J. Development Co., Inc., Fort Wayne, Indiana and the City of Fort Wayne for Lake River Estates West, Section II Sanitary Sewer Extension, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Agreement between H. J. Development Co., Inc., Fort Wayne, Indiana and the City of Fort Wayne for Lake River Estates West, Section II Sanitary Sewer Extension, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects. The work under said Agreement requires:

This sanitary sewer extension is more specifically described below:

Commencing at the first manhole east of Arapaho Passover & Old Leo Rd. thence southerly in and along a recorded easement a distance of 260± L.F. terminating at a proposed cleanout. Said sewer to be 8" in diameter;

no Cost to the City is involved.

SECTION 2. Prior Approval was received from Council with respect to this Agreement on November 1, 1983. Two (2) copies of the Agreement attached hereto are on file with the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Victure Scrogg [signature]
Councilmember

APPROVED AS TO FORM
AND LEGALITY

[signature]
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Scruggs, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ______, the ______ day of ______, 19__, at ______ o'clock __.M.,E.S.T.

DATE: 11-22-83

Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by GiaQuinta, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 12-13-83.

Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ NO. S-261-83.
on the 13th day of December, 1983.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Roy A. Eisbart
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of December, 1983, at the hour of 1:00 o'clock P.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 15th day of December 1983, at the hour of 3 o'clock P.M.,E.S.T.

[signature]
WIN MOSES, JR. - MAYOR

73-208-32
10/26/83

AGREEMENT

FOR

SEWER EXTENSION

THIS AGREEMENT, made in triplicate this 26th day of October 1983, by and between H. J. Development Company, Inc., an Indiana Corporation, hereinafter referred to as "OWNER" and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "CITY", WITNESSETH,

WHEREAS, the "OWNER" desires to construct a local sanitary sewer described as follows:

DESCRIPTION OF SANITARY SEWER

An 8" line commencing at a new manhole (station 0 + 00), 170'+ or - East North East of the center line of Arapaho Passover and in the right of way South of the property line common with lots 48 and 49 in Lake River Estates West, Section II; on the North side of Old Leo Road. Thence Southeasterly within the easement, on the property line of 57 and 58 and 56, distance of 200' to a new manhole (station 2 + 00); thence South within easement, on the property line common to Lots 58 and 59 and Lot 60, a distance of 60' terminating with a clean-out (station 2 + 60).

Lots 48 through 54, inclusive, in Lake River Estates West, Section II, to utilize Leo-Cedarville sanitary sewer purchased by City, Recorded Document #83-17992. In accordance with plans, specifications and profiles heretofore submitted to and approved by "CITY" and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of "CITY" and known as the Lake River Estates West, Section II, dated August 25, 1983 which plans, specifications, profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the "OWNER" has an interest, but also an adjoining land areas and:

WHEREAS, the cost of construction of said sewer is represented to be $6,800.00

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

"OWNER" shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by "CITY" under private contract to be let within sixty (60) days after requisite "CITY" approval. All work and materials shall be subject to inspection by "CITY" and the right of "CITY" to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed completed and/or permanently connected into the sewer system of "CITY" until final acceptance by "CITY" and "CITY shall accept sewage therefrom subject to such sewage service charges as may now or hereafter be regularly established by "CITY", and all further maintenance thereafter shall be borne by "CITY."

2. COST OF CONSTRUCTION

"OWNER" agrees to pay the entire cost and expense of construction of said sewer, in cash, including "CITY" engineering and inspection fees, and to hold "CITY" harmless from any liability for claims connected therewith.

3. AREA OF "OWNER"

Said sewer when accepted by the "CITY" will serve the following described real estate; Lots numbered, 48 through 60 as platted within Lake River Estates West, Section II - See Exhibit "A."

As "OWNER" will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by "CITY" for connections to "CITY" sewer mains and treatment of sewage therefrom.

4. AREA CONNECTION CHARGE

The area connection charges establshed by the City under the St. Joe Study Area as formulated at $700.00 per acre to be recorded at a future date are hereby made applicable for the net "Area of the Developer" as shown on Exhibit "A." The total area of the developer is 4.02 acres. The assessable acreage is 4.02 for residential purposes.

The Owner recognizes the City of Fort Wayne is in the process of establishing sanitary sewer Area Connection Fees for the St. Joe Study Area. Therefore, in the interim, until the final dollar amount for the Area Connection fees has been established, the owner agrees to pay Seven Hundred ($700.00) Dollars per acre. It is understood that should the final area connection fee figure be less than Seven Hundred ($700.00), then the City of Fort Wayne will reimburse us the difference. It is further understood and agreed that should the final area connection fee be more than Seven Hundred ($700.00) Dollars, I, the owner, agree to pay the difference.

5. BOND

This contract is subject to "OWNER" and/or his contractor furnishing a satisfactory Maintenance Bond for 25 percent of the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by "CITY",

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only, and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste in accordance with City Municipal Code.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

"OWNER", for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with, or oppose any pending or future annexation by "CITY" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce "CITY" to execute and ratify this contract, said "OWNER", for himself, his successors and assigns, agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"OWNER" further agrees that any deeds, contracts, or other instruments of conveyance made by "OWNER, his successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article which provisions shall run with the land the acceptance of the delivery of any such instruments from "OWNER," his successors and assigns by any grantee, vendee, or contract pruchaser, shall be made subject to the terms of this Agreement and shall constitute an

acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

"OWNER" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of ist adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by siad sewer. (I.C. 36-9-22-2, as added by Acts 1981, P.L. 309, 395)

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force andeffect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

H. J. DEVELOPMENT, INC.

Hugh W. Johnston, President

"CITY"
MAYOR

BY: Win Moses, Jr.

BOARD OF PUBLIC WORKS

BY: ______________________
Stephen A. Bailey, Chairman

BY: Jack Wilson, Sr.
Jack Wilson, Sr.

BY: Betty Collins
Betty Collins, Member

ATTEST:

Helen V. Gochenour
Helen V. Gochenour, Clerk

APPROVED AS TO FORM AND LEGALITY:

R. J. Snouffer

Assoc. City Attorney ASSOCIATE CITY ATTORNEY

STATE OF INDIANA

COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Hugh W. Johnston, President who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes there in contained.

WITNESS my hand and notarial seal this 26th day of October 1983.

Judith A. Girardot
Notary Public
Resident of Allen County

My Commission Expires:

6-14-86

This instrument prepared by
M. Kim Dunifon, Vice-President
H. J. Development Company, Inc.

STATE OF INDIANA

COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Win Moses, Jr., Mayor, City of Fort Wayne, Indiana, and Stephen A. Bailey, Chairman, Board of Public Works, and Jack Wilson, Sr., and Betty Collins, Members, respectively, of the Board of Public Works, and acknowledged the execution of the foregoing Agreement for Sewer Extension, as and for the uses and purposes therein contained.

WITNESS my hand and Notarial Seal this 26th day of October 1983.

Thelma A. Morris
Thelma A. Morris Notary Public
Resident of Allen County,
Indiana

My Commission expires:

8/2/87

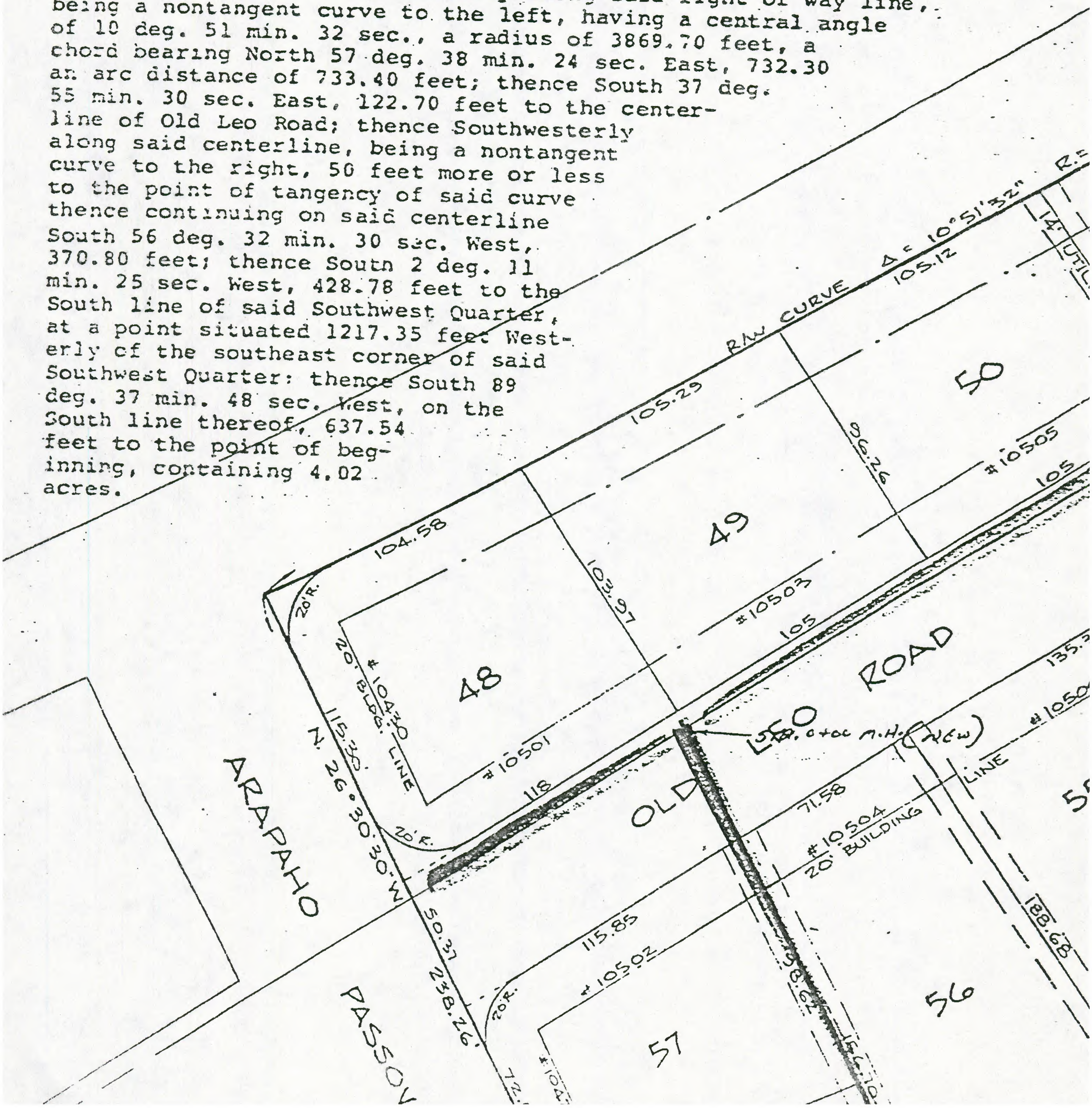
LAKE RIVER ESTAT

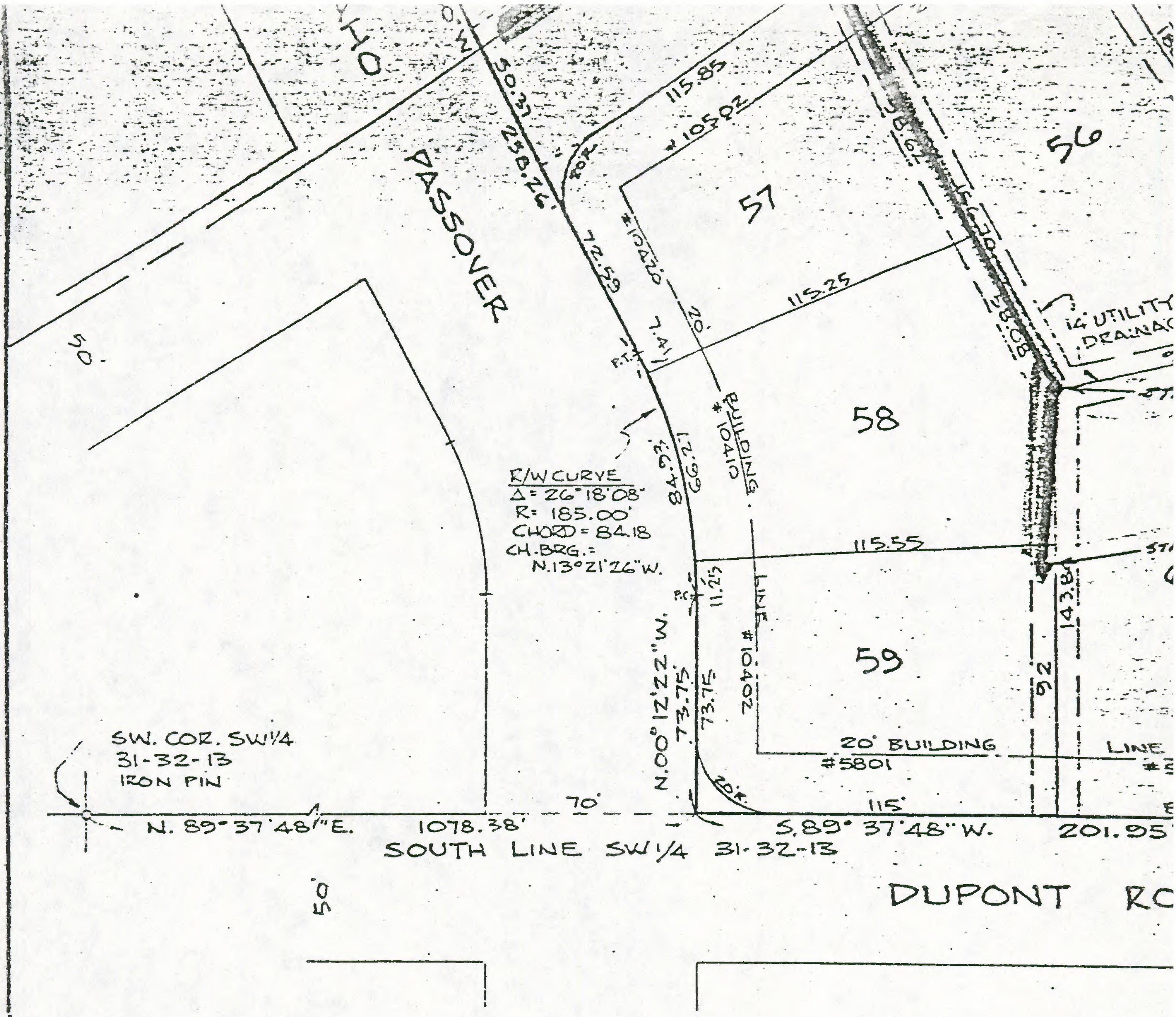
SECTION TWO

A SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTI

LEGAL DESCRIPTION

Part of Lots 6, 7 and 9 of Trease Estate Plat A as recorded in Deed Record 158, pages 1 to 8 in the Office of the Recorder of Allen county, Indiana, situated in the Southwest Quarter of Section 31, Township 32 North, Range 13 East, said County, described as follows:
Commencing at the southwest corner of said Southwest Quarter; thence North 89 deg. 37 min. 48 sec. East, on the south line thereof,1078.38 feet to th the East right of way line of Arapaho Passover (Doc. #80-1879, Recorder's Office); thence North 00 deg. 12 min. 22 sec. West, along said right of way line, 73.75 feet to the point of curvature of a 185 feet radius curve to the left, subtend-ing a central angle of 26 deg. 18 min. 08 sec.; thenc Northwesterly along said curve an arc length of 84.93 feet to the point of tangency of said curve; thence North 26 deg. 30 min. 30 sec. West,contin-uing on said right of way line238.26 feet to the southeasterly right of way line of State Road 1 (Right of way Grant in Deed Record 582, page 536-91: thence Northeasterly along said right of way line, being a nontangent curve to the left, having a central angle of 10 deg. 51 min. 32 sec., a radius of 3869.70 feet, a chord bearing North 57 deg. 38 min. 24 sec. East, 732.30 an arc distance of 733.40 feet; thence South 37 deg. 55 min. 30 sec. East, 122.70 feet to the center-line of Old Leo Road; thence Southwesterly along said centerline, being a nontangent curve to the right, 50 feet more or less to the point of tangency of said curve thence continuing on said centerline South 56 deg. 32 min. 30 sec. West, 370.80 feet; thence South 2 deg. 11 min. 25 sec. West, 428.78 feet to the South line of said Southwest Quarter, at a point situated 1217.35 feet West-erly of the southeast corner of said Southwest Quarter: thence South 89 deg. 37 min. 48 sec. West, on the South line thereof, 637.54 feet to the point of beg-inning, containing 4.02 acres.





CERTIFICATION

I, Timothy F. Owens, hereby certify that I am a Professional Land Surve licensed in compliance with the laws of the State of Indiana; that this correctly represents a survey completed by me on March 4, 1983; that al shown hereon actually exist and that their location, size, type and mat accurately shown.

TIMOTHY F. OWENS REGISTERED No. S0241 STATE OF INDIANA LAND SURVEYOR

Timothy F. Owens

Timothy F. Owe
Indiana Reg. #

H. J. DEVELOPMENT COMPANY, INC

833 COLISEUM BLVD. NORTH FT. WAYNE, IND

MARCH 4, 1983 - REVISED MARCH 22 '83

EXHIBIT

Hugh H. Johnston - President Hugh Johnston - Secret

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me a notary public in and for said county and state personall appeared the above named owners and acknowledged the execution of th foregoing plat for use and purposes set forth as their voluntary act

My Commission expires: By: ______________________

______________________ Notary Public (resident of Allen County)

Approved by the Allen County Indiana Plan Commission

Date: ______________________

____
Lester C. Gerig - Presi

____
Edward L. Neufer - Vice P

____
Arthur G. Spirou - Secre

Approved by the Fort Wayne Board of Public Works

Date; ______________________

____
Stephen A. Bailey - Chai

____
Roberta Anderson-Staten - Mem

____
Betty Collins - Mem

Approved by the Allen County Board of Commissioners

Date; ______________________

____
Richard M. Regedanz - Presi

____
Richard M. Ellenwood - Vice P

____
Jack Worthman - Secre

Approved by the Allen County Surveyor

Date; ______________________

____
William L. Sweet

Approved by the Allen County Health Commissioner

Date; ______________________

____
Dr. Jane M. Irmscher

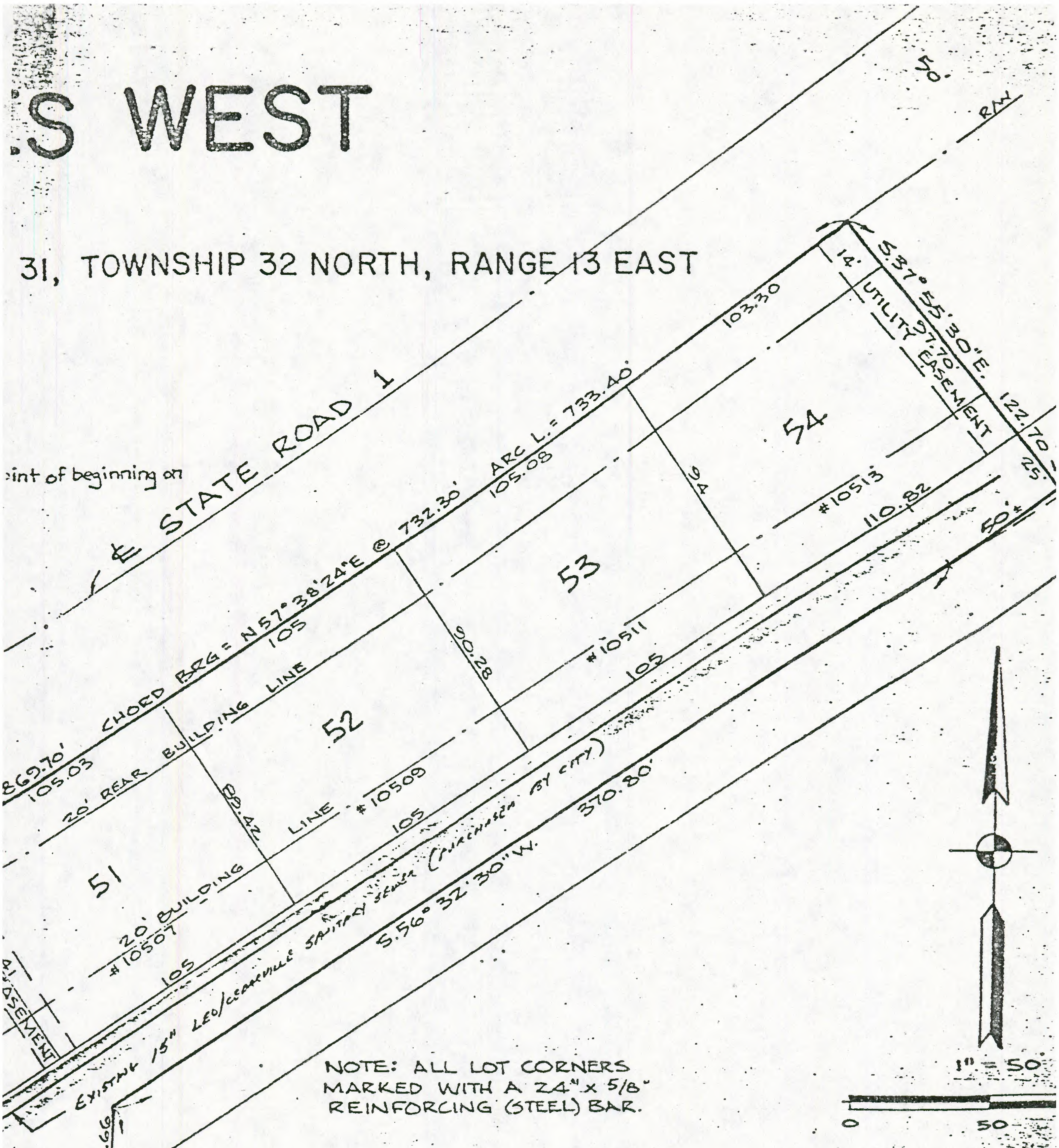
Approved by the Allen County Zoning Administrator

Date; ______________________

____
Jack G. Suter

SURVEYOR: T. F. OWENS & ASSOC.
1402 EAST STATE BLVD.
FORT WAYNE, INDIANA

ENGINEER: PHILIP SCHNELKER
2777 MAPLECREST
FORT WAYNE, IND



DEDICATION

We, HJ DEVELOPMENT COMPANY, INC. owners by virtue of a deed shown in Document 83-005504 in the office of the Recorder of County, Indiana of the real estate shown and described herein, do subdivide and plat the same into lots, streets and easements as s the plat to be known as Lake River Estates West Section Two, an a to the County of Allen this 24th day of MARCH, 1983; do hereby d the streets thus shown to the public use and do hereby subject an ess all lots in said Addition with the restrictions, covenants, l ions and easements attached hereto and made part hereof by refere

H. J. DEVELOPMENT COMPANY, INC.

By: ______________________________ By: ______________________________

Hugh W. Johnston - President Hugh Johnston - Sec

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me a notary public in and for said county and state perso appeared the above named owners and acknowledged the execution o foregoing plat for use and purposes set forth as their volunt

My Commission

BILL NO. S-83-11-56

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving Agreement between H.J. Development Co., Inc., Fort Wayne, Indiana and the City of Fort Wayne for Lake River Estates West, Section II Sanitary Sewer Extension, in connection with the Board of Public Works 11/1/83

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

VICTURE L. SCRUGGS, CHAIRMAN	Victure Scruggs
SAMUEL J. TALARICO, VICE CHAIRMAN	Samuel J. Talarico
DONALD J. SCHMIDT	DJ Schmidt
MARK E. GiaQUINTA	Mark E. GiaQuinta
PAUL M. BURNS	Paul M. Burns

Concurred 12-13-83

Admn. Appr.

TITLE OF ORDINANCE Lake River Estates West, Sec. II San. Sewer Extension Agreement

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

S-83-11-56

SYNOPSIS OF ORDINANCE This is an agreement bet. H. J. Development Co., Inc Fort Wayne, Indiana and the City of Fort Wayne. This san. sewer extension is more specifically described below:

Commencing at the first manhole east of Arapaho Passover & Old Leo Rd. thence southerly in and along a recorded easement a distance of 260± L.F. terminating at a proposed cleanout. Said sewer to be 8" in diameter.

PRIOR APPROVAL RECEIVED 11/1/83

EFFECT OF PASSAGE Improved sanitary conditions at above location.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) No Cost to City.

ASSIGNED TO COMMITTEE